

SAMUEL NORRIS.

[To accompany bill H. R. No. 310.]

APRIL 4, 1840.

Mr. DELLET, from the Committee on Private Land Claims, submitted the following

REPORT :

*The Committee on Private Land Claims, to whom was referred the memorial of Samuel Norris, have examined the same, and ask leave to report :*

The claim of the memorialist has heretofore occupied the attention of Congress ; and the action had thereon by the House, and the committees to whom the subject has heretofore been referred, is herein presented to the consideration of Congress.

The claim of the memorialist was recognised in the report of Valentine King and David L. Todd, (register and receiver of the land district south of Red river in Louisiana,) commissioners under the act of Congress approved 3d March, 1824, providing for the execution of titles to lands in that part of Louisiana situated between the Rio Hondo and the Sabine river, and also under the act approved 26th May, 1824, supplementary thereto : which report of said commissioners is dated 1st November, 1824, submitted to the 1st session of 24th Congress ; and having been referred to the Committee on Private Land Claims, a bill was reported confirming many claims specified in the report, which bill embraced claims numbered 10 and 13, which claims designated the lands claimed by the memorialist.

On the passage of said bill, claims 10 and 13 were postponed, for the purpose of ascertaining whether the lands embraced by said claims were within the district of country possessed or occupied by the Caddo Indians. At the 2d session of the 24th Congress, the claim of the memorialist was again presented for the consideration of Congress, and referred to the Committee on Private Land Claims ; and Mr. Huntsman, from said committee, on the 30th December, 1836, made a report in the following words :

“ DECEMBER 30, 1836.

*“ The Committee on Private Land Claims, to whom were referred the documents pertaining to various land claims for lands lying between the Rio Hondo and Sabine river, respectfully report :*

*“ That the register and receiver of the southwestern land district were directed by the act of Congress of the 3d of March, 1823, and a supplemental act thereto, passed on the 25th of May, 1824, as commissioners, to examine into the claims, take testimony, &c., and recommend for confirmation or rejection, to Congress, such claims as should be submitted them in a given*

time, as will more fully appear by a reference to said acts. The register and receiver, in pursuance of said authority, proceeded in the performance of the duty assigned them, took testimony, and adjudicated many claims, confirming some and rejecting others. Among those which were recommended for confirmation, were a certain number which were suspended by Congress in the passage of an act of the 24th of May, 1828, (which confirmed the balance,) as the act recites that they should be suspended 'until it is ascertained whether they are situated in the country claimed by the Caddo Indians.'

"There has been no information obtained upon this point; but it is believed there has been sufficient information obtained to supersede the necessity of that inquiry. It is believed by the committee, from the best information within their reach, that the Caddo Indians had no right of any sort there, except a permissive right, and that the citizens who claimed by habitation, cultivation, or otherwise, were not trespassers or intruders upon the Indian lands. A thorough inquiry has been made of the Secretary of War, for such information as was in possession of his department in relation to the country from whence the Caddoes came; what time they settled in the country in question; and what right they hold and claim in these lands.

"The Secretary has communicated all the information at his command, which, taken with his correspondence with one of your committee, is too voluminous to incorporate in this report. And although there is no direct evidence which is absolutely conclusive, yet there is much circumstantial testimony, which is extremely persuasive, to establish these facts:

"That, anciently, these Indians inhabited a country much farther southwest than the one which is now the subject of inquiry; that, about thirty years ago, they were driven by their enemies (the Osages) from the country they then inhabited upon the white settlements, where they were permitted to remain until the late treaty with them, in the making of which it appears that the Secretary of War did not consider that they had any title to the country, but was induced to give them the sum of (perhaps) \$80,000, to relinquish their possessions and go off *peaceably*, as will more fully appear by the correspondence upon that subject.

"The committee are, therefore, of opinion that those cases which were suspended by the 1st section of the act of 1828 are as meritorious as those which were confirmed, and have reported a bill for the confirmation of those claims which were suspended."

At the succeeding session of Congress, the aforesaid claims (Nos. 10 and 13) were referred to the Committee on the Public Lands; which committee, through Mr. Johnson, of Louisiana, prepared a report, which does not appear to have been acted on by Congress; but your committee think proper to incorporate the same in this report, for the purpose of putting the House in possession of the reasoning of their previous committees on this subject. The report prepared by Mr. Johnson is as follows, viz:

*"The Committee on the Public Lands, to whom were referred the documents in relation to certain claims for lands lying between the Rio Hondo and Sabine river, report:*

*"That, by the act of Congress of the 3d March, 1823, entitled 'An act providing for the examination of the titles to land in that part of the State of Louisiana situated between the Rio Hondo and the Sabine river,' and a*

supplemental act thereto, passed on the 25th of May, 1824, the register and receiver of the land office of the southwestern district of the State of Louisiana were required to receive and record all written evidences of claim to land in all that tract of country situated between the Rio Hondo and Sabine river, within the State of Louisiana, derived from, and issued by, the Spanish Government of Texas, prior to the 20th December, 1803, according to the regulations as to the granting of lands, the laws and ordinances of said Government; and to receive and record all evidences of claim founded on occupation, habitation, and cultivation, designating particularly the time and manner in which each tract was occupied, inhabited, or cultivated, prior to and on the 22d February, 1819, and the continuance thereof subsequent to that time, &c.; and to transmit to the Secretary of the Treasury a complete record of all the claims presented to them under the said acts, and the evidence appertaining to each claim; and to recommend for confirmation or rejection such claims as should be thus presented. That, in pursuance of said authority, the register and receiver performed the duty assigned them, and transmitted their report to the Secretary of the Treasury: that among the claims embraced in the said report, and recommended for confirmation, are eleven, making in all 6,406 acres, which are suspended by 'An act to confirm claims to lands in the district between Rio Hondo and Sabine river, founded on habitation and cultivation,' passed on the 24th May, 1828, 'until it is ascertained whether they are situated in the country claimed by the Caddo Indians.'

"No information has been obtained showing that these claims are within the territory formerly claimed by the Caddo Indians. It is believed by the committee, however, that if such proof had been exhibited, it should not have prevented the confirmation of these claims, the Caddo Indians not having had any right to the territory claimed by them, except that of possession, and the claimants not being intruders upon the Indian lands. It appears that these Indians were driven by their enemies, (the Osages,) about thirty years ago, from the southwest, upon the white settlements, where they were permitted to remain until the late treaty; and that, in making the said treaty, the Secretary of War did not consider that they had any right to the country in which they resided, but was induced to give them the sum of \$80,000 to relinquish their possessions, and to remove from the country *peaceably*, as will appear by the documents accompanying this report.

"The committee, being of opinion, therefore, that the claims suspended by the 1st section of the act of 1828 are as meritorious as those which are confirmed by the said act, report a bill providing for their confirmation."

The reason alleged for postponing the confirmation of the claims numbered 10 and 13 aforesaid, was, to ascertain if the land designated in said claims was embraced within the limits of the land occupied by the Caddo Indians.

The evidence furnished by the Secretary of War shows, conclusively, that the Caddo Indians owned no lands in that district of country; that they were intruders: they remained by the tacit permission of those who had a right to the soil, and not by virtue of any right they had thereto.

The treaty of the 1st July, 1835, entered into between the United States and the Caddo Indians, was an arrangement by which the United States agreed to pay them the amount stipulated in the treaty, to induce them *peaceably* to move off and quit the land they were then living on. If the

Caddo Indians did not, in fact, own any land which passed to the United States by the aforesaid treaty, the claim of the memorialist could not have been embraced within the limits of the lands the possession of which was yielded by the Caddo Indians in said treaty.

There is evidence before the committee, showing that the Caddo Indians never pretended that their claim or possession extended far enough to include the lands specified in claims 10 and 13; but this is not deemed material.

The evidence furnished by the Secretary of War establishes the fact, that the Caddo Indians had no limits of land to designate; and, if so, the claim of Samuel Norris cannot be affected by any compact entered into between the United States and said Caddo Indians.

It is in proof that Samuel Norris resided on the land covered by claims 10 and 13 in the year 1817; and although the evidence submitted to the commissioners in 1824 is not before the committee, yet, as it was sufficient to induce them to report favorably, and also sufficient to warrant the Committee on Private Land Claims (1st session of 24th Congress) to recommend, by report and bill, the confirmation of claims 10 and 13, which were, on the passage of said bill, postponed for no other reason than to give time to ascertain if the claims 10 and 13 were a part of the Caddo possession, it is not believed necessary to refer to said evidence; for, if the Caddo Indians owned no lands, those claims could not be embraced as part or parcel of lands belonging to them. And the 2d article of the treaty entered into with them on the 1st day of July, 1835, shows that the United States contracted, and said Caddo nation agreed to surrender to the United States their possession and move off, &c.

The claim of Samuel Norris to numbers 10 and 13 originated long previous to the treaty with the Caddo Indians, and, if valid, must be in conformity to the laws and treaty stipulations in force previous to said treaty; and the treaty of 1st July, 1835, with the Caddo Indians, could not annul and make void previously existing rights.

The committee are of opinion that Samuel Norris's claim to numbers 10 and 13 ought to have been confirmed by the act of the 24th May, 1828; and beg leave to report a bill confirming the same.